9916. 11:27—25,000—20-12-36.

Revenue (1936) Department

(W) SERIES

G.O. No. 2773

Dated 13-XI 1940

[Despatch Abstract]

Excise - Toddy shop No.1 Hampankotta - Mangalore town Lease 1940-41 - Location in the site related by the renter - Objection by the Excise Licensing Board - Over-ruled - Report under rule 17 of the Excise Licensing Board Rules - Reocrded.

C.F. 31—2,506—4-2-39.

BOARD OF REVENUE (EXCISE) DEPARTMENT.

CURRENT No. 2795-D

Received _____ 19 Registered 7-11-40 19

-7 NOV 1940

Subject.

Toddy shop No.1 Hampankatta - Mangalore Town - Lease 1940-41 - Location in the site selected by the renter - Objection by the Excise Licensing Board - Over-ruled - Report under rule 17 of the Excise Licensing Board Rules - Submitted -

pp 38-39 of C.S. 102 at pp 96-98 of Excise Manual Vol I - Rule 31.

D. No.2325-Abk7/40

Station Triplicane, Madras, Dated the 1st November 1940. 19

From

SRI RAO SAHIB C. RAGHAVAN, B.A.,

Secretary, SSISTANT SECRETARY,

Board of Revenue. (EXCISE)

G. . Priestley Esq., I.C.S.,
Commissioner of Excise, Board of Rev., Separate Revenue.

Resolution:-

The Excise Licensing Board, Mangalore held its first meeting on 10-5-40 under rule 13(1)(a) of the Mufassal Excise Licensing Board Rules to determine the location of toddy shops entered in the Collector's preliminary list for 1940-41 lease and published the list as required by that rule calling for objections. Third June 1940 was fixed as the date for the second meeting under rule 13(1)(b) to consider the objections if any. As no objections were received the list adopted in the meeting on 10-5-40 was declared as final. But in its meeting on 10-9-40 convened under rule 13(1)(c) for the purpose of approving the specific sites selected by renters of toddy shops for 1940-41 lease the Excise Licensing Board passed a resolution objecting to the location of T.S.No.1 Hampankatta of Mangalore Town in the site selected

pp 37-38 of C.S. No. 102 at pp 96-98 of Rule 31

p 38 ibid

do

pp 5-6 infra

the notified limits approved by the Excise Licensing Board and suggested its shifting to another site also within the notified limits. The site selected by the renter and objected to by the Excise Licensing Board was the same in which the shop had been located without any objection for the past many years (except during 1938-39 when it was located in the site now recommended by the Excise Licensing Board). The decision was taken by all the non-official members voting together and the reasons for taking the decision are recorded in the resolution of the Excise Licensing Board (copy enclosed). Pp 5-6 mifa

The Revenue Divisional Officer, Mangalore, who is the ex-officio chairman of the Excise Licensing Board did not agree with the Excise Licensing Board's decision. He made a local inspection of the locality with the Tahsildar and Excise Inspector and found that the surroundings of the shop premises though not clean could not be called insanitary, and that the site of the toddy shop objected to by the Excise Licensing Board was at a distance of 190 feet from the vacant sites newly acquired by the Municipality and proposed to be sold as shop sites. He reported that there are many shops and hotels in the locality within 90 feet from the objected site and that they have been thrivin all these years and that there was no reason therefore why the shops to be put up on the Municipality's vacant sites at a distance of 190 feet should be adversely affected. He also pointed out that there are an arrack shop in the locality which has not been objected to. The Collector agreed generally with the Revenue Divisional Officer and added that the objection put forward by the Excise Licensing Board about the reaction on prices for the vacant municipal sites was not a matter of immediate urgency. A copy of the Collector's report is enclosed. The vacant sites in question were taken possession of by the municipality in March

Pp 7-9 mifa

last (13-3-40) and the first meeting of the Excise Licensing Board under rule 13(1)(a) was held on 10-5-40. Two members of the Excise Licensing Board representing the municipality under rule 2(d) of the Excise Licensing Board Rules were present at that meeting but no objection was then raised to the location of the toddy shop in the existing site. Nor was any objection raised before 5-6-40 the date to which the second meeting of the Excise Licensing Board under rule 13(1)(b) was posted to consider objections. Had the objection raised by the Excise Licensing Board in September been raised in time i.e. in May last the exclusion of the particular block objected to from the notified limits of the shop could have been considered and notified to the [illegible] adjusted their bids to suit the difficulties involved in removing the shop to a new site. The Excise Licensing Board's omission to say anything about this in May led the renter who has taken the shop for the current lease for an increased rental of Rs.1,470 a month against Rs.1,230 for 1939-40 to the very natural belief that the site used in the previous lease within the limits approved by the Excise Licensing Board in May last would be also available in the current lease and he would have adjusted his bids accordingly. If the renter is now to be forbidden to make use of that site it would amount to a breach of faith with him. The Excise Licensing Board could very well raise the objection in May next in the normal course when there will be sufficient time to revise the notifications and give ample notice to the persons interested in the next lease.

For these reasons the Board disagreed with the decision taken by the Excise Licensing Board at its meeting on 10-9-40 and directed the Collector to convene

a special meeting, with reference to rule 17 of the Excise Licensing Board Rules to consider the reasons of the Board for differing from the Excise Licensing Board's decision. A special meeting was accordingly convened on 14-10-40 at which the Excise Licensing Board reiterated its original decision. For the reasons already indicated above the Board is unable to accept the resolution of the Excise Licensing Board and has issued orders overruling it and permitting the location of the shop in the site select by the renter for 1940-41 lease

/True Extract/

ASSISTANT SECRETARY.

To the Secretary to Government, Revenue Department, (with 2 enclosures)

R.P.N.74/11

Proceedings of the meeting of the Excise Licensing Board of the Mangalore Municipality, held at 5 P.M. on 10-9-1940.

Present:

1. Sri C. Balagurunatham Pillai, B.A., Revenue Divisional Officer, President.
2. " K. Govinda Nambiyar, Inspector of Excise, Mangalore.
3. " K. Ishwara, Mangalore.
4. " U.N. Krishna Rao, Inspector of Police, Mangalore.
5. " B. Mohanappa Thingalaya, Mangalore.
6. Mr. R.B.C.D. Andrade, Municipal Councillor, Mangalore.
7. Sri M.R. Bhat, Municipal Councillor, Mangalore.
8. Sri B.Venkatrao Baliga, B.A., B.L., M.L.A., Mangalore.

...

Read schedules of toddy shops No. 1, Hampankatta, No.3, Boloor, No.4, Kodialbail, No. 6, Mangalore thota, No. 2, Casba Bazaar (Mochikeri), and No. 5, Attavar (Nandigudde) giving the specific premises selected by the renters for the location of the shops for the lease 1940-41.

The sites selected by the renters of T.S.No. 4, Kodialbail, No. 6, Mangalore thota, No.2, Casba Bazaar (Mochikeri) and No. 5, Attavar (Nandigudde) are not objected to by the members of the Committee

But there is objection as regards T.S.No. 1, Hampankatta by Sri K.R.K. Shet for the following reasons :

1. Insanitary grounds.

2. The vacant sites recently acquired by the Municipality on either side of the newly opened road connecting Market road and Maidan

road in block No. 10 will have to be sold as shop sites by the municipality. The existence of a toddy shop in the midst and the proximity of shops and hotels is objectionable.

3. The existence of a toddy shop might detract the value of the vacant sites to be sold by the Municipality. The Committee suggests that the present site may be shifted to some other unobjectionable site - preferably to Felix Rai buildings - within the notified limits. Five of the Committee members agree with the above objection (Nos. 3,5,6, 7 and 8 in the above list).

The following block is suggested by the Committee.

East - Ganapathy High School road starting from Krishna Novelty Stores up to the Ganapathy temple street.

North- From that point of the Ganapathy temple road westwards up to Venkatramana temple square.

West - Bhavanthi Street in front of Nursing Home proceeding Southwards upto the North-Western corner of the Webster Market

South - North-western corner of the Webster market proceeding along the market North cross road and thence along the market road up to the Krishna Novelty Stores.

The above five members agree to this proposal.

The resolution is carried by a majority of 5 : 2.

An objection petition has been received from residents residing in and around IVth Ward Boloor for the location of T.S.No.3 of ~~Bloor~~ Boloor in the site proposed by the new renter. This objection is considered unanimously by the Committee to be not valid.

Sd. C. Balagurunathan Pillai,
K. Govindan Nambiyar,
U.N. Krishna Rao,
B.M. Thingalaya,
B. Venkatrao Baliga,
M. R. Bhat,
R. B. C. D. Andrade,
K. Ishwara.

(True copy).

Copy of letter from the Collector of South Kanara Ref.C.No.A.6 - 6286-40 dated 17-9-40.

Sub: Abkari - Excise Licensing Board, Mangalore Municipality Under Rule 13(1) (c) of the Rules for muffasal Licensing Boards - Decision to set aside - report.

Reference:- Proceedings of the meeting of the Excise Licensing Board Mangalore Municipality, held on 10-9-1940.

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2. L.Dis.5124-40 dated 12-9-1940 from the Revenue Divisional Officer, Mangalore.

Under Rule 13(1) (c) of the Rules for the muffasal Licensing Boards a meeting of the Excise Licensing Board of the Mangalore Municipality was convened by the Chairman of the Board on 10-9-1940 for the purpose of approving the specific sites selected by the renters of the toddy shops within the Mangalore Municipality for the lease commencing from 1-10-1940.

2. The Board unanimously approved of all the sites selected by the renters except that of T.S.No.1 Hampankatta. In the case of the excepted shop there was an objection petition from certain residents of the Kasba Bazaar village against the continuance of the shop in the present site for the lease 1940-41 and the five non-official members of the Board who were present at the meeting supported that objection. The reasons for the rejection of the site selected by the renters have been recorded by the Board at its meeting held on 10-9-40, copy of which is enclosed.

3. The Revenue Divisional Officer, Mangalore who is the ex-officio Chairman of the Board held a local inspection with the Tahsildar, Mangalore and the local Excise Inspector and he disagrees with the decision of the Board for the reasons stated by him in his report L.Dis.5124-40 dated 12-9-40 enclosed.

4. I agree generally with the views contained in paras 4 and 5 of the report.

5. The meeting of the Board under rule 13(1) (a) was held on 10-5-40. The two representatives of the Mangalore Municipality under rule 2(d) of the rules for the Muffasal Excise Licensing Boards who are now in favour of the shifting of the shop from its present site were present then also. But no objections were then raised against the continuance of the shop in its present site. The Board notified the second meeting under rule 13(1)(b) to consider objections, if any, to the proposed sites to be held on 3-6-40. But as no objections were received the decision of the Board at its preliminary meeting was declared as final. The objections now raised could have been brought to the notice of the Board before 3-6-1940 which was the proper time for such objections. But no objection was preferred then. If the present objection had been filed in time the exclusion of this particular block could have been considered on 3-6-40 and notified to the bidders in good time and the bidders could have adjusted their bids to suit the difficulties involved in removing the shop to a new site.

6. The toddy shop in question T.S.No.1 Hampankatta is the biggest in the district with a monthly rental of Rs.1470/ for the lease 1940-41 as against Rs.1230 for the current lease. The revised specific site suggested by the Board almost restricts the location of the shop to a particular locality, which is the property of one individual. A large part of this block consists of dwelling houses mostly occupied by Gowda Saraswath Brahmins. The present renter purchased the shop at an increased rental of Rs.1470/ as against Rs.1230 for the current lease because he had good reason to believe that there could be no objection to the location of the shop at its present site. It will be a great hardship for him if he is now asked to locate it elsewhere.

the Board. A sketch of the locality with an index is submitted herewith. It would be seen that the site selected by the renter is sufficiently far away from the vacant sites newly acquired by the Municipality and any way the objection put forward about the reaction on prices for the site is not a matter of immediate urgency Under condition 3 applicable to all abkari and opium licences the licensee has to keep the shop premises in a sanitary condition to the satisfaction of inspecting officers. This clause is embodied in the licence itself and any infringement thereof entails punishment. This condition is sufficient to ensure that the renter keeps the premises in a sanitary condition. As regards the surroundings it is the look-out of the Municipality to see that the occupants of the surrounding buildings keep their respective premises clean.

8. In the circumstances I consider that the decision of the Licensing Board is not justified and is liable to be set aside. I accordingly recommend that the decision of the Board at its meeting held on 10-9-40 in respect of T.S.No.1 (Hampankatta) may be set aside and that the site selected by the renter of the ensuing lease approved.

9. I would, however, add, that the question whether the existence of the toddy and arrack shops on this site would affect adversely the site values of the lands which have been acquired by the Municipality and which are proposed to be sold, may still be left open, and the question may be raised and considered again when sites are notified for the next arrack lease and toddy lease. My present recommendati is made not so much on the ground that the contention in that regard is baseless, as on the other circumstances of the case which have been set out above.

(True copy)

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined ..		
When signed ..		
When despatched.		

SUBJECT :—

READ AGAIN ....., dated ..... 19.....

" " ..... " ..... 19.....

READ *ALSO* :—

C No. 2795D/40 From the Board of Revenue Resd. No. 2325 Abk/40 dated 1.11. 1940 Cf.

" ..... " ..... " ..... " ..... 19.....

" ..... " ..... " ..... 19.....

Order / ~~Resolution~~ Ms. / ~~Rout.~~ No. 2773, dated 13.11.40. 19.....

C UB

Dpd. by Van / Post / Messenger

Dpr's initials. Date 14/11 100

Recorded

To

The Board of Revenue

Note

Pp 38-39 of CS No 102 at Pp 96-98 of Excise Home Fol I. Pt 31.

The report in the Cf. has been submitted with reference to Rule 17 of the Rules relating to Excise Licensing Boards in the Presidency. No remarks are called for. The report may be ~~recorded~~. The draft above is for approval.